

ALLEGED SHIPMENT: On or about August 25, 1944, by the Sethness Products Co., from Chicago, Ill.

PRODUCT: 2 1-gallon bottles of 505 Fermentation Inhibitor at Philadelphia, Pa. Analysis showed that the product was an aqueous solution containing about 34 grams of monochloroacetic acid per 100 cc.

LABEL, IN PART: "Contains * * * Food Acid * * * Use: To be used in Acid products to prevent lactic and alcoholic fermentation and the growth or multiplication of yeast bacteria."

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling was misleading in that it failed to reveal the fact that the article contained about 34 grams, per 100 cc., of monochloroacetic acid, a poisonous and deleterious substance, which caused the article itself to be a poisonous and deleterious substance and which rendered it unwholesome and unsuitable for use as a component of food used by man.

DISPOSITION: On November 4, 1944, the Sethness Products Co., claimant, having filed a petition for the removal of the case for trial to another jurisdiction, an order was entered directing the transfer of the case to the Eastern District of Wisconsin. Thereafter, the claimant filed an answer denying the misbranding of the product and, on July 2, 1945, the case came on for trial before the court. After consideration of the testimony of the parties and the arguments of counsel, the court, on September 4, 1945, handed down the following findings of fact and conclusions of law:

DUFFY, District Judge:

FINDINGS OF FACT

"1. On or about the 25th day of August, 1944, said Sethness Products Company did ship and consign from Chicago, Illinois to Philadelphia, Pennsylvania said article so seized.

"2. That said article consists of a solution of monochloroacetic acid in water in the proportions of thirty-four grams of monochloroacetic acid to one hundred cubic centimeters of the article. Monochloroacetic acid is a poisonous and deleterious substance; and the article is a poisonous and deleterious substance.

"3. Said article was sold and shipped by claimant to be used as a component of food.

"4. When introduced into interstate commerce as aforesaid, the labeling of said article represented that it was a non-poisonous and harmless substance and failed to reveal the fact material in the light of such representation that said article is a poisonous and deleterious substance, and that by reason of said omission I find that said labeling was misleading within the meaning of Sec. 343 (a), Title 21, United States Code.

"5. That 505 Fermentation Inhibitor, when used in proportions not to exceed 500 parts per million, does not render foods or beverages injurious, deleterious or unsafe for human consumption.

"And I find as

CONCLUSIONS OF LAW

"1. That the said article under seizure is misbranded in violation of Sec. 343 (a), Title 21, United States Code, because its labeling is misleading within the meaning of Sec. 343 (a), and was introduced into interstate commerce in violation of Sec. 331 (a), Title 21, United States Code, and is subject to condemnation pursuant to Sec. 334 (a), Title 21, United States Code. Let a decree of condemnation be entered accordingly, with costs against the claimant."

On September 4, 1945, judgment of condemnation was entered and the said article, containing 505 parts per million, does not render foods or beverages injurious, the law, under the supervision of the Federal Security Agency.

8503. Misbranding of 505 Fermentation Inhibitor. U. S. v. 3 Jugs of 505 Fermentation Inhibitor. Default decree of condemnation and destruction. (F. D. C. Nos. 16141, 16142. Sample No. 23733-H.)

LIBELS FILED: On or about May 22, 1945, Southern District of Texas.

ALLEGED SHIPMENT: On or about November 9, 1944, by the Sethness Products Co., from Chicago, Ill.

PRODUCT: 3 1-gallon jugs of 505 Fermentation Inhibitor at Houston, Tex. Analysis showed that the product was an aqueous solution containing about 34 grams of monochloroacetic acid per 100 cc.

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling was misleading since the name "505 Fermentation Inhibitor," in combination with the statements, "Contains: Water, Acetic Derivatives, Food Acids, and esters and ethers of monochloroacetic acid. Use: To be used in Acid products to prevent lactic and alcoholic fermentation and the growth or multiplication of yeast bacteria," created the impression that the article was wholesome and suitable for use as a component of food used by man, whereas it contained monochloroacetic acid, a poisonous and deleterious substance.

DISPOSITION: August 30, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

8504. Misbranding of Effect-O. U. S. v. 3 Bottles of Effect-O (and 2 other seizure actions against Effect-O). Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed. (F. D. C. Nos. 16424 to 16428, incl. Sample Nos. 17957-H to 17961-H, incl.)

LIBELS FILED: June 18, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On or about November 15, 1944, and February 23, 1945, by the Chandler Laboratories, from Philadelphia, Pa.

PRODUCT: 3 bottles and 66 cases, each containing 4 bottles, of Effect-O at Chicago, Ill.; and 16 bottles and 18 bottles of Effect-O at Aurora and Joliet, Ill., respectively. Analysis showed that the product was a water solution containing about 13 percent of monochloroacetic acid.

LABEL, IN PART: (Bottles) "Effect-O Contents One Gallon."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label of the article was misleading in that the label statements, "The Perfect Stabilizer For All Beverages Eliminates the Use of Preservatives Use ½ Oz. to each Gallon of Bottling Syrup," created the impression that the article was wholesome and suitable for use as a component of all beverages used by man; and the labeling of the article failed to reveal the material fact, in the light of such representations, that monochloroacetic acid is a poisonous and deleterious substance which rendered the product unwholesome and unsuitable for use as a component of beverages used by man.

DISPOSITION: Between September 26 and November 6, 1945. Chandler Laboratories having appeared as claimant for the 66-case lot of the product and having admitted the facts of the libel, and no claimants having appeared for the other lots of the product, judgments of condemnation were entered and the 66-case lot was ordered released under bond for relabeling under the supervision of the Food and Drug Administration. The remaining lots were ordered destroyed.

8505. Misbranding of Effect-O. U. S. v. 3 Bottles of Effect-O. Default decree of condemnation and destruction. (F. D. C. No. 16429. Sample No. 19217-H.)

LIBEL FILED: June 8, 1945, Northern District of Iowa.

ALLEGED SHIPMENT: On or about March 19, 1945, by the Anchor Storage Co., from Chicago, Ill.

PRODUCT: 3 1-gallon bottles of Effect-O at Waterloo, Iowa.

LABEL, IN PART: "Effect-O * * * Chandler Laboratories, Philadelphia, Pa."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label of this article was misleading in the same respect as the label of the product reported in the preceding notice of judgment, No. 8504, involving another lot of the same product.

DISPOSITION: July 2, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8506. Misbranding of liquid stabilizer. U. S. v. 3 Jugs of Liquid Stabilizer. Default decree of condemnation and destruction. (F. D. C. No. 16152. Sample No. 5821-H.)

LIBEL FILED: May 17, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about March 6, 1945, by Edward I. Lowell, from New York, N. Y.

PRODUCT: 3 1-gallon jugs of liquid stabilizer at Paterson, N. J. Analysis showed that the product was essentially an aqueous solution of monochloroacetic